IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.10.2005

CORAM

THE HON'BLE MR. JUSTICE.P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE. S.K. KRISHNAN

W.P.NO.35794 OF 2002
and
W.P.M.P.No.53497 of 2002

1.The Secretary to Government
Home Department,
Fort St. George, Chennai-9.
2.The Director General of Police
Admiralty House, Chennai-2.
3.The Deputy Inspector General of Police
(Administrative)
Admiralty House, Chennai-2. ...Petitioners

Vs.

1.P.Ravichandran
235, 10th Street
Aziz Nagar, Ulundurpet-606 107.
2.The Registrar
Tamil Nadu Administrative Tribunal
Chennai-104. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Certiorari calling for the records of the second respondent pertaining to the order made in O.A.No.887/99, dated 11.4.2002 and quash the same.

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For Petitioners : Mr.E.Sampath Kumar
Government Advocate

For Respondent No.1 : Mr.AR. L. Sundaresan

For Respondent No.2 : No appearance.

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ORDER

(Order of the Court was made by P.SATHASIVAM, J.)

Aggrieved by the order of the Tamil Nadu Administrative Tribunal, Chennai dated 11.4.2002 made in O.A.No.887 of 1999, the petitioners, namely, the Secretary to Government, Home Department, the Director General of Police and the Deputy Inspector General of Police, have preferred the above writ petition.

2. It is seen that the first respondent herein had applied for recruitment as Sub Inspector of Police for the year 1994-95. He had passed various tests conducted by the Tamil Nadu Uniformed Service Recruitment Board prior to the recruitment. Police verification was conducted as to verify his conduct, character and antecedents to assess his suitability. During the police verification, it was found that he was facing a criminal case in Shankar Nagar Police Station Cr.No.2343 of 1994 under Section 307 I.P.C. While finalising the selection list of the candidates, his name was included in the provisional selection list. However, his name for appointment to the post of Sub Inspector of Police was withheld in order to know the result of the disposal of the criminal case against him in the first instance.

3. Meanwhile, the first respondent approached the Tribunal for necessary direction. The Tribunal, after recording the stand taken by the department in their counter/reply affidavit, particularly in para-6, and taking note of the fact that the applicant has been acquitted by judgment dated 23.8.1996 in C.C.No.204 of 1995 on the file of the Principal Assistant Sessions Judge, Chengleput, allowed the application and issued appropriate direction to the effect that the applicant would be eligible to draw salary only from the date of his actual joining duty. Questioning the same, present writ petition has been filed.

4. The learned Government Advocate would submit that in as much as the applicant has suppressed the material aspect, namely, pendency of criminal charge under Section 307 I.P.C., though he was provisionally selected, he cannot have any right for appointment to the post of Sub Inspector of Police.

5. However, the learned counsel appearing for the first respondent has submitted that though the applicant has failed to refer the said incident, in as much as he was acquitted from the charge levelled against him and in view of the fact that he was

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provisionally selected subject to the result of the criminal case, in the light of the judgment of the Criminal Court acquitting the applicant, the Tribunal is fully justified in passing direction for appointment of the applicant as Sub Inspector of Police. He also relied on the decision of a Division Bench of this Court reported in 2005 (1) CTC 429.

6. It is clear from the stand taken by the department in their reply, particularly in para – 6, that the applicant's name was included in the provisional selection list. However, his name for appointment to the post of Sub Inspector of Police was withheld to know the result of the disposal of the criminal case pending against him.

7. It is not in dispute that the said criminal case ended in acquittal by judgment dated 23.8.1996. Based on the same and in the light of the provisional selection of the applicant subject to the result of the criminal case, we are of the view that the Tribunal is fully justified in issuing the direction for appointment of the first respondent to the post of Sub Inspector of Police.

8. We also verified the factual details available in the decision of the Division Bench reported in 2005(1) CTC 429 (P. VIRABHAGU VS. THE UNION OF INDIA, REP. BY THE SECRETARY TO GOVERNMENT OF INDIA, MINISTRY OF HEALTH & FAMILY WELFARE SERVICES, NIRMAN BHAVAN, NEW DELHI-1 AND OTHERS as well as the decision of the Supreme Court in REGIONAL MANAGER, BANK OF BARODA V. PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL AND ANOTHER (1999 (2) SCC 247). On going through the same, we are of the view that the said principle is applicable to the case on hand.

9. The learned counsel appearing for the first respondent has also brought to the notice of this Court that though the first respondent, namely, P. Ravichandran was not considered even after his acquittal in the criminal case relating to 307 I.P.C., in the case of one C.Sentilkumar, who was also charged for various offences including 307 I.P.C. in Cr.No.19 of 1993 on the file of Kattuputhur Police Station and who was also acquitted on 6.3.1996, the Director General of Police in his proceedings dated 15.4.1999 considered the name of the said Senthilkumar and appointed him as Sub Inspector of Police.

10. All the above mentioned details are available at pages 1 to 7 of the typed set filed by the first respondent.

11. In the light of what is stated above, we do not find any error or infirmity for interference. Accordingly, the writ

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petition fails and the same is dismissed. No costs. Connected W.P.M.P. is also dismissed.

RNB

Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1. The Secretary to Government
   Home Department,
   Fort St. George, Chennai-9.

2. The Director General of Police
   Admiralty House, Chennai-2.

3. The Deputy Inspector General of Police
   (Administrative)
   Admiralty House, Chennai-2.

4. The Registrar
   Tamil Nadu Administrative Tribunal
   Chennai-104.

+1 CC to Mr.AR.L.Sundaresan, Advocate, SR No.42199

+1 CC to Government Pleader, SR No.42043

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